



CITY OF SUNNYVALE REPORT Planning Commission

July 24, 2006

SUBJECT: **2006-0627 – Calstone & Peninsula Building Supplies**
 [Applicant] **JJ & W, LLC** [Owner]: Application at **1175 Aster Avenue** (near Lawrence Expressway) in an M-3/ITR/R-3/PD (General Industrial/Industrial to Residential Medium-Density/Planned Development) Zoning District.

Motion **Variance** from Sunnyvale Municipal Code §19.42.030 (maximum allowable noise level for an industrial business).

REPORT IN BRIEF

Existing Site Conditions Heavy industrial building supply manufacturer and retailer (concrete pavers manufacturing and retail – Calstone and Peninsula Building Material Supply).

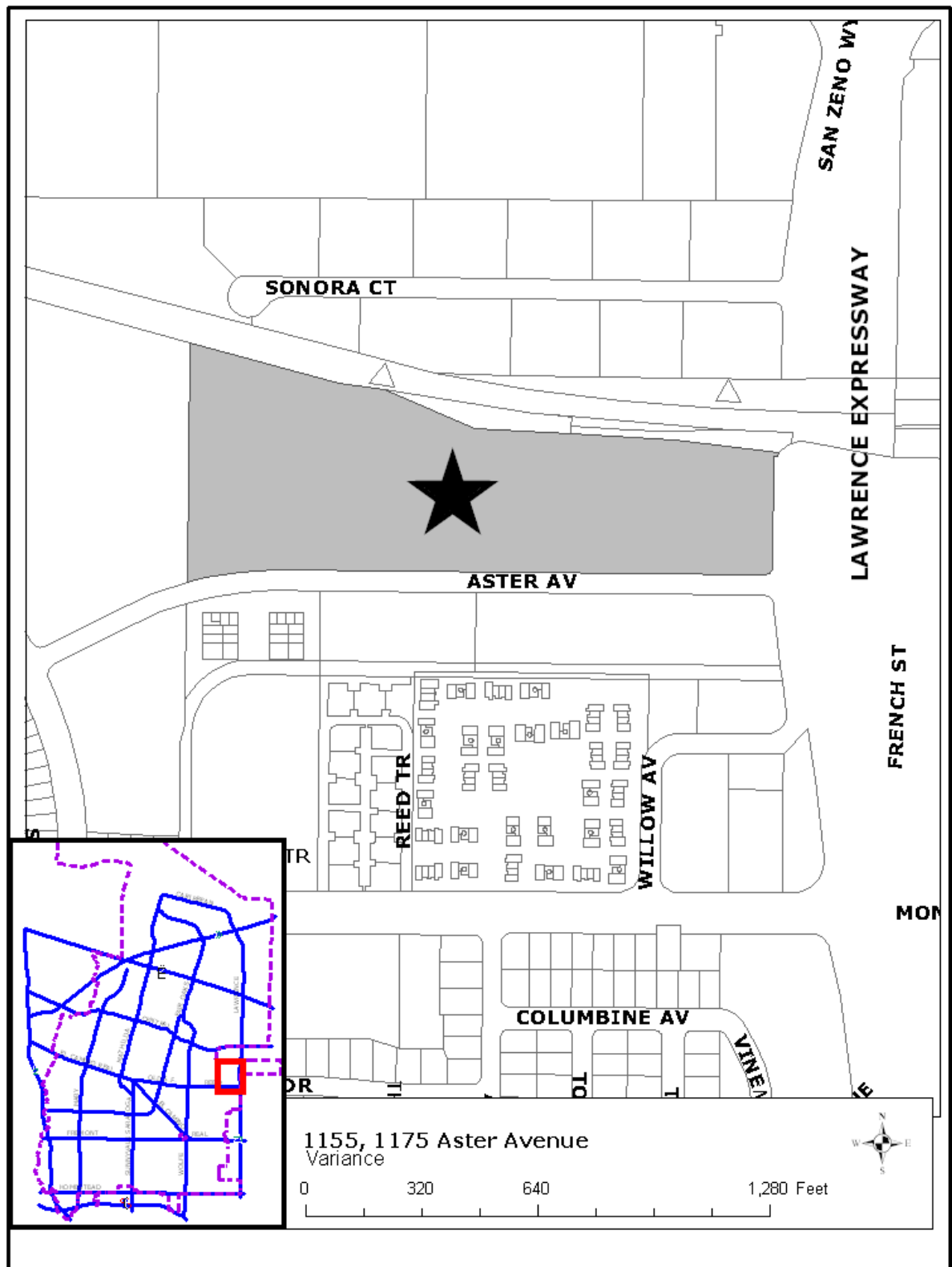
Surrounding Land Uses

North	Industrial buildings
South	Approved Residential Medium Density and Light Industrial
East	Lawrence Expressway (City of Santa Clara multi-family housing development across Lawrence Expressway)
West	Multi-family Residential

Issues Noise

Environmental Status A Mitigated Negative Declaration has been prepared in compliance with California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with conditions



PROJECT DATA TABLE

	EXISTING	PROPOSED	REQUIRED/ PERMITTED
General Plan	Industrial to Residential Medium Density	Same	N/A
Zoning District	M-3/ITR/R-3/PD	Same	N/A
Lot Size (acre)	16.26	Same	22,500 min.
Gross Floor Area (s.f.)	15,225	Same	N/A
Lot Coverage (%)	2%	Same	35% max.
Floor Area Ratio (FAR)	2%	Same	N/A
Setbacks (First & Second Stories Facing Property)			
• Front on Aster	30'	Same	25' min.
• Front on Willow	343'	Same	0' min 20' total
• Left Side	277'	Same	0' min 20' total
• Rear	42'	Same	0' min.

ANALYSIS**Definitions**

For purposes of this report, the following definitions apply:

(Definitions are from 2003 California State General Plan Guidelines)

Term	Definitions
Decibel (dB)	A unit used to express the relative intensity of a sound as it is heard by the human ear.
A-Weighted Sound Level (dBA)	The “A-weighted” scale for measuring sound in decibels; weighs or reduces the effects of low and high frequencies in order to simulate human hearing. Every increase of 10 dBA doubles the perceived loudness though the noise is actually ten times more intense.
Day/Night Noise Level (Ldn)	The average A-weighted noise level during a 24-hour day, obtained after addition of 10 decibels to levels measured in the night between 10:00 pm and 7:00 am.

Description of Proposed Project

The project consists of a Variance application from the City's Operational Standards (Noise or Sound Level – Sunnyvale Municipal Code (SMC) §19.42.030(a)) for two existing industrial businesses, Calstone and Peninsula Building Materials. The applicant is proposing a Variance from the 60 dBA/day and 50 dBA/night standard (applied to properties adjacent to residential properties) to allow them to operate up to 75 dBA on a 24-hour basis. The applicant indicates that historically the businesses have operated under the 75 dBA standard, but the introduction of residential properties adjacent to this site in recent years has caused a more detailed review of the appropriate zoning standards for this use. It has been determined that the lower standard applies in this case. There is no provision in SMC to grandfather in existing industrial noise levels when adjacent residential developments occur. The applicant is proposing to be allowed to continue the current operations at the non-residential noise level.

Background

The subject parcel is adjacent to an existing 330 unit multi-family apartment complex that was approved in 1984. There have been some noise issues with the existing apartment complex but these have generally been mitigated by the construction of a 10-foot high masonry sound wall. This wall was constructed by the residential developer at the time the project was constructed. There are two recently approved multi-family projects across Aster Avenue (Citation Homes – 44 units and KB Home – 80 units) that will contain ownership town home developments. As a result of the approval of these projects, the owners of Calstone and Peninsula Building Material have a heightened awareness of the applicable SMC noise limitations that apply to their site. In response to this the applicants (owner's of Calstone and Peninsula Building Materials) have applied for a Variance from SMC Noise standards with the intention of legalizing a non-residential noise standard at their location.

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.

File Number	Brief Description	Hearing/Decision	Date
1056	Original Use Permit approval for Calstone	Planning Commission/ Approval	2/10/1964
1972-0127	Expansion of Calstone to add Peninsula Building Materials	Planning Commission/ Approval	6/26/1972

Environmental Review

A Mitigated Negative Declaration has been prepared in compliance with the California Environmental Quality Act provisions and City Guidelines. An initial study has determined that the proposed project with mitigation would not create any significant environmental impacts (See Attachment D).

Environmental Context: The surrounding zoning to the west and east are both multi-family residential (R-3/PD-Residential Medium Density/Planned Development and City of Santa Clara multi-family housing project across Lawrence Expressway). The zoning to the north is an Industrial (M-3 and M-S) Zone which is currently being used by Caltrain (Lawrence Station) and other industrial businesses. The Zoning to the south is an Industrial to Residential Medium Density (M-3/ITR/R-3/PD) Zone. There are three parcels abutting this property to the south, one of which is an industrial condominium used by multiple, indoor, small businesses (contractors, offices, etc.). The second two parcels were recently approved for medium density town home developments. These two parcels are in the early stages of demolition and construction, with no residents living on site at this time.

Peninsula Building Materials retails a variety of stone, bricks, paving stones, associated hardware, and more. The hours of operation are from 7:00 am to 5:00 pm, Monday through Friday. Peninsula Building Materials typically utilizes semi-truck and dump trucks as the product transport, averaging around 30 daily truck trips. The business retails to the public as well as other businesses. The original Use Permit to allow the business at this location was approved by the City's Planning Commission on February 10, 1964.

Calstone manufacturers, retails, and stores building materials (masonry – rock, pavers, brick) on-site. Calstone is designed to operate on a 24-hour basis, 7 days a week, with one shift commencing every eight hours. Typically business hours occur from 6:00 am to 10:00 pm. The 10:00 pm to 6:00 am shift only occurs on an intermittent basis throughout the year as the market warrants. 24-hour operations do not occur sporadically on a weekly basis, but rather occur over longer periods such as months in the year. This is due to a fundamental business issue of increased staffing, resources, economics, etc., to make the third daily shift physically and economically feasible. Calstone utilizes both semi-truck and rail cars for product delivery/export. Along the northern property line, there is a Southern Pacific railway line leading into this site that enables the rail cars to enter directly onto the site. Product export occurs using semi-truck transport averaging around 20 daily truck trips. The business sells primarily to other businesses.

ITR Background: A study issue (Futures Study), allowing the development of residential units in industrial zones, was completed in 1993 to address the City's

ongoing housing shortages. As a result of the study, City Council approved a rezone, which added the Industrial to Residential (ITR) Combining District and the R-3 designation to the existing M-S and M-3 Zones. The ITR Combining District allows industrial, office, commercial and residential uses to exist within the same zoning district, and allows existing industrial, office and commercial sites to convert to residential use. The R-3 district defines the residential density and development standards. The subject site was rezoned to M-3/ITR/PD as part of this study in 1993. The current property and business owners were noticed and involved in the Futures Study at that time.

Noise Assessment: The applicant submitted a noise study prepared by Illingsworth and Rodkin, Inc, (Attachment C) analyzing the existing exterior noise levels at the site on June 19 and June 20, 2006. The study measured the noise levels at four separate locations on the Calstone and Peninsula Building Materials site. The locations included one on the western property line and four on the southern property line along Aster Avenue. The measurement occurred over one, 24-hour period. Calstone was not under full operation throughout the 24-hour measurement period, but measurements of all equipment used during nighttime hours were reported.

The results of the study are presented as different noise levels. The first is the Leq, or average A-weighted noise level during the measurement period. The second is the LMax, which is the maximum noise levels reached at any one time.

According to the noise study, the noise levels along the western property line (Calstone side of the 10-high masonry wall) were typically less than 70dBA, but there were some activities that reached between 75 and 80dBA. The noise levels along Aster were the most significant and reached a maximum of 94dBA over the 24-hour period. The 24-hour average levels at the three meters along Aster Avenue were Ldn 66dBA, 61dBA, and 65dBA.

The report identified the significant noise contributors at the site as semi-truck deliveries (up to 75dBA), forklifts (up to 97dBA), and the block manufacturing machine (68-69dBA). The report concludes by saying the general operations at the site comply with a 75dBA noise level limit (industrial limit) on all property lines, but forklift generated noise may intermittently exceed the 75dBA limit. The report includes the following discussion of the forklift operations:

Forklifts operate along the Aster Avenue property boundary just inside the fence because they must be able to access both sides of the stacks of blocks in order to accommodate the various types of materials that are manufactured. Most forklift operations occur between about 6:00 AM and 5:00 PM but a forklift may operate at any time when the facility is operating. Because the forklifts are operating very close to the property line, they intermittently generate noise levels above 75 dBA, both as a result of the engine and the backup beeper. As discussed previously, engine noise could be as high as 87 dBA and beeper noise could be as high as 97 dBA. Noise levels resulting from forklift operations along the Aster Avenue property line just inside the fence would also intermittently exceed the residential noise limits across the street. While the engine noise would cause a technical violation of the noise ordinance, it would not be noticeably different than typical vehicular traffic noise levels generated by vehicle passbys along Aster Avenue. Noise levels from the forklift engines would be lower than noise levels generated by trucks on Aster Avenue which would be passing closer to the residences. The occasional noise from the forklift engines would not make a measurable difference in the hourly or daily average noise levels at the residences across the street.

The sound of the backup alarm is a different matter. Backup beepers are a frequent source of complaints from residents, whether they occur during the daytime, evening, or nighttime. Backup alarms are regulated by CAL OSHA. Backup alarms must generate a noise level at least 5 dBA above the background noise in the vicinity of the rear of the machine where a person would be warned by the alarm. Because forklifts operate in quiet areas near the property line and in noisy areas near the block manufacturing equipment, a constant level backup alarm must be set at a high enough amplitude to be clearly heard in the noisiest area. In this situation, the 97 dBA at 4 feet setting is appropriate for a fixed level backup alarm. Variable level backup alarms are also manufactured. These alarms measure the background sound between the beeps and vary the amplitude so as to generate an OSHA compliant level.

Mitigation Measures: The Acoustical Report recommends the following mitigation measures for noise control of the existing conditions:

- WHAT: 1) Install new variable volume backup alarms on the forklifts. This would reduce property line noise levels from the backup alarms by up to 15 dBA and will reduce the maximum dBA at the property line to be 75dBA or less.*
- 2) Recess the gate guide (a steel strip on the driveway) at the front entrance to below the asphalt grade to prevent empty trucks from bouncing and generating high noise levels.*

- 3) *Put up a truck sign inside the gate at the front entrance that says “Noise Sensitive Area, Minimize Engine Revving, Gear Grinding”, etc.*

WHEN: These mitigation measures will be converted into conditions of approval for this Variance prior to its final approval by the City’s Planning Commission. The conditions will become valid when the Variance is approved and enforced within three months of the final approval date.

WHO: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

Variance

Use: City’s Operational Standards (Noise or Sound Level – Sunnyvale Municipal Code §19.42.030(a)) states the following:

19.42.030. Noise or Sound Level

(a) Operational noise shall not exceed seventy-five dBA at any point on the property line of the premises upon which the noise or sound is generated or produced; provided, however, that the noise or sound level shall not exceed fifty dBA during nighttime or sixty dBA during daytime hours at any point on adjacent residentially zoned property. If the noise occurs during nighttime hours and the enforcing officer has determined that the noise involves a steady, audible tone such as a whine, screech or hum, or is a staccato or intermittent noise (e.g., hammering) or includes music or speech, the allowable noise or sound level shall not exceed forty-five dBA.

The subject parcel is adjacent to an existing 330 unit multi-family apartment complex that was approved in 1984, so the current SMC noise standard of 60 dBA/day and 50 dBA/night applies to this site. There is no provision in SMC to grandfather in existing industrial noise levels when adjacent residential developments occur. In addition, there are two recently approved multi-family projects across Aster Avenue (Citation Homes and KB Home) that will contain ownership town home units.

Compliance with Development Standards/Guidelines: The existing site complies with all current development standards. No further improvements are proposed at this time.

Expected Impact on the Surroundings

The applicant is not proposing to modify the existing operation of their businesses in any way, other than to include acoustical mitigation measures that would reduce some of the existing operational noise at the site. The adjacent residential projects were approved with the knowledge of the noise and operations at the Calstone and Peninsula Materials site. In addition, the adjacent projects have been designed and constructed to reduce the indoor noise levels and to minimize the impact of the outdoor noise levels. As a condition of approval for the two recently approved town home projects on Aster, new home buyers are required to be given a disclosure statement by the developers describing the adjacent industrial operations, including allowed uses, hours of operation, types of operations, maximum noise levels allowed, etc. These disclosure statements are required to be signed by the buyers and are included in the CC&Rs of the projects.

Fiscal Impact

No fiscal impacts are expected if the Variance is approved. If the Variance is denied, operation at Calstone would likely be curtailed, resulting in a reduction in overall business sales and a corresponding reduction in sales tax to the City.

Public Contact

Notice of Public Hearing	Staff Report	Agenda
<ul style="list-style-type: none">• Published in the <i>Sun</i> newspaper• Posted on the site• 1,300 notices mailed to the property owners and residents within 300 ft. of the project site	<ul style="list-style-type: none">• Posted on the City of Sunnyvale's Website• Provided at the Reference Section of the City of Sunnyvale's Public Library	<ul style="list-style-type: none">• Posted on the City's official notice bulletin board• City of Sunnyvale's Website

Conclusion

Findings and General Plan Goals: Staff was able to make the required Findings based on the justifications for the Variance. Findings and General Plan Goals are located in Attachment A.

Recommended Conditions of Approval: Conditions of Approval are located in Attachment B.

Alternatives

1. Adopt the Mitigated Negative Declaration and approve the Variance with the attached conditions.
2. Adopt the Mitigated Negative Declaration and approve the Variance with modified conditions.
3. Adopt the Mitigated Negative Declaration and deny the Variance.
4. Do not adopt the Mitigated Negative Declaration and direct staff as to where additional environmental analysis is required.

Recommendation

Alternative 1

Prepared by:

Steve Lynch
Project Planner

Reviewed by:

Gerri Caruso
Principal Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Noise Analysis from Illingsworth & Rodkin, Inc., dated June 26, 2006
- D. Mitigated Negative Declaration
- E. Applicant's Letter of Justification, dated June 16, 2006

Recommended Findings - Variance

1. Because of exceptional or extraordinary circumstances or conditions applicable to the property, or use, including size, shape, topography, location or surroundings, the strict application of the ordinance is found to deprive the property owner of privileges enjoyed by other properties in the vicinity and within the same zoning district.

Staff finds the subject businesses (Calstone and Peninsula Building Materials) to be unique uses within Sunnyvale, due to their operational and physical requirements. The operational requirements include expanded hours of operation (24-hours, 7-days a week), high volume of semi-truck delivery/pick-up, use of Southern Pacific railway line for raw material deliveries, outdoor manufacturing with significantly large machinery that cannot be enclosed in a building, and outdoor storage of materials and produces that must be accessible to vehicle access (fork lifts and semi-trucks). The physical requirements include the necessity of a significantly large area of land necessary for material storage, large machinery, general vehicle operations, and proximity to the Southern Pacific railway line. Staff also finds the businesses to be unique in the City relative to the products they manufacture and retail. Other retailers of similar produces (Home Depot, Lowe's, Orchard Hardware Supply) have only a limited inventory of products available to the public and do not retail directly to large construction companies.

2. The granting of the Variance will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the same zoning district.

Staff finds that the surrounding properties will not be negatively impacted since the existing operation of the businesses will not be modified as a result of this application, except the changes required in the environmental mitigation measures. In addition, the adjacent projects (existing and approved developments) have been designed and constructed to reduce the indoor noise levels and to minimize the impact of the outdoor noise levels. The site design features include sound rated windows, sound rated exterior building walls, masonry sound walls on perimeter property lines, location of common open space areas in least impacted locations, use of landscape as visual screening, and required disclosure statements for future residents. Finally, mitigation measures have been included in the conditions of approval that would reduce some of the existing operational noise at the site.

3. Upon granting of the Variance, the intent and purpose of the ordinance will still be served and the recipient of the Variance will not be granted

special privileges not enjoyed by other surrounding property owners within the same zoning district.

Staff finds that the granting of a Variance would not constitute a special privilege for this property owner since there are no other similar surrounding properties that are construction yards of this magnitude.

Recommended Conditions of Approval - Variance

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit.

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. GENERAL CONDITIONS

- A. Project shall be in conformance with the plans approved at the public hearing(s). Minor changes may be approved by the Director of Community Development; major changes may be approved at a public hearing by the Planning Commission.
- B. The Variance for the use shall expire if the use is discontinued for a period of one year or more.
- C. The Variance shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

2. ENVIRONMENTAL MITIGATION MEASURES

- A. In addition to complying with applicable City Codes, Ordinances, and Resolutions, the following mitigation measures are incorporated into the project to minimize the identified potential environmental impacts:

- WHAT:
- 1) Install new variable volume backup alarms on the forklifts. This would reduce property line noise levels from the backup alarms by up to 15 dBA and will reduce the maximum dBA at the property line to be 75dBA or less.
 - 2) Recess the gate guide (a steel strip on the driveway) at the front entrance to below the asphalt grade to prevent empty trucks from bouncing and generating high noise levels.
 - 3) Put up a truck sign inside the gate at the front entrance that says "Noise Sensitive Area, Minimize Engine Revving, Gear Grinding", etc.

WHEN: These mitigation measures will be converted into conditions of approval for this Variance Application prior to its final approval

by the City's Planning Commission. The conditions will become valid when the Variance is approved and must be installed within three months.

WHO: The property owner will be solely responsible for implementation and maintenance of these mitigation measures.

HOW: The conditions of approval will require these mitigation measures to be incorporated into the construction plans.